

**AMENDMENTS TO THE CLAIMS:**

1. (Currently Amended) An overlay mark having a mark pattern formed by engraving one of a groove ~~or~~ and an indent in a prescribed position on a layer where a circuit pattern is formed, and a grooved pattern that surrounds said mark pattern so as to protect said mark pattern from being deformed by thermal expansion or contraction of said layer.

2. (Currently Amended) An overlay mark used for measuring the overlay accuracy in forming a second circuit pattern over a first circuit pattern; ~~which has,~~ comprising:

a first lower-layer pattern formed by engraving one of a groove ~~or~~ and an indent in a prescribed position on a first layer where the first circuit pattern is formed; ~~and;~~

an upper-layer pattern formed in a prescribed position on a second layer where the second circuit pattern is to be formed; ~~and, in addition,~~

a second lower-layer pattern that is formed by engraving, on the first layer, a frame-shaped groove to surround the first lower-layer pattern, and is not used for measuring the overlay accuracy.

3. (Currently Amended) The overlay mark according to Claim 2, wherein the first lower-layer pattern is utilized as an alignment mark at the time of alignment to superimpose a mask onto a wafer ~~in the step of~~ during exposure.

4. (Currently Amended) The overlay mark according to Claim 2, wherein: the first lower-layer pattern ~~is either~~ comprises one of a grooved pattern in the shape of a polygonal

frame viewed from the top ~~or~~ and a polygonal depressed pattern; and

wherein the second lower-layer pattern is a grooved pattern in the shape of a polygonal frame viewed from the top, being formed to surround the first lower-layer pattern at a substantially equal interval.

5.(Currently Amended) The overlay mark according to Claim 2;,wherein: the first lower-layer pattern is comprises a grooved pattern in which, viewed from the top, a pair of bar-shaped patterns are arranged parallel, facing each other with the upper-layer pattern between;~~and,~~

wherein the second lower-layer pattern is comprises a grooved pattern in the shape of a quadrangular frame viewed from the top, and is formed to surround the whole of the first lower-layer pattern, and

wherein sides of said frame-shaped grooved pattern running parallel to respective bar-shaped patterns in the first lower-layer pattern are disposed at an equal interval to the corresponding opposite bars-shaped pattern.

6. (Currently Amended) The overlay mark according to Claim 2;, wherein: the first lower-layer pattern is comprises a grooved pattern in which, viewed from the top, a pair of bar-shaped patterns are arranged parallel, facing each other with the upper-layer pattern between;~~and~~

wherein the second lower-layer pattern is comprises a grooved pattern comprising patterns, each in the shape of a quadrangular frame viewed from the top and formed to surround respective bar-shaped patterns of the first lower-layer pattern, and

wherein sides of said frame-shaped grooved pattern running parallel to respective

bar-shaped patterns in the first lower-layer pattern are disposed at an equal interval to the corresponding opposite bar-shaped pattern.

7. (Currently Amended) The overlay mark according to Claim 5, ~~which has~~ further comprising:

a third lower-layer pattern, in a region surrounded by the second lower-layer pattern on the first layer, formed by engraving grooves to surround every bar-shaped pattern of the first lower-layer pattern separately, each in the shape of a frame;

wherein: sides of said third lower-layer pattern running parallel to respective bar-shaped patterns in the first lower-layer pattern are disposed at an equal interval to the corresponding opposite bar-shaped pattern; ~~while,~~ the third lower-layer pattern is not used for measuring the overlay accuracy.

8. (Currently Amended) The overlay mark according to Claim 2, wherein said upper-layer pattern is formed from a resist layer laid over the second layer and comprises a pattern in the shape of one of a polygon, a frame ~~or~~ and a bar viewed from the top.

9. (Currently Amended) An overlay mark used for making alignment to detect and decide an aligning position of a wafer and a mask; ~~in the step of exposure~~ during photolithography to form a second circuit pattern over a first circuit pattern; ~~which has,~~ comprising:

a first pattern formed by engraving one of a groove ~~or~~ and an indent in a prescribed position on a layer where the first circuit pattern is formed; and

a second pattern that is formed by engraving a frame-shaped groove to surround the

first pattern, and is not used for making alignment.

10. (Currently Amended) The overlay mark according to Claim 9<sub>1</sub>, wherein: the

the first pattern ~~is~~ comprises a grooved pattern in the shape of a polygonal frame viewed from the top<sub>1</sub> and

wherein the second pattern ~~is~~ comprises a grooved pattern in the shape of a polygonal frame viewed from the top, being formed to surround the first pattern at a substantially equal interval.

11. (Currently Amended) The overlay mark according to Claim 9<sub>1</sub>, wherein: the first

pattern ~~is~~ comprises a grooved pattern in which, viewed from the top, bar-shaped patterns are arranged parallel<sub>1</sub> and

wherein the second pattern ~~is~~ comprises a grooved pattern in the shape of a quadrangular frame viewed from the top, and is formed to surround the whole of the first pattern,

wherein sides of said frame-shaped grooved pattern running parallel to respective bar-shaped patterns in the first pattern are disposed at an equal interval to the corresponding opposite bar-shaped pattern.

12. (Currently Amended) The overlay mark according to Claim 9<sub>1</sub>, wherein: the

first pattern ~~is~~ comprises a grooved pattern in which, viewed from the top, bar-shaped patterns are arranged parallel<sub>1</sub> ~~and,~~

wherein the second pattern ~~is~~ comprises a grooved pattern comprising patterns, each in the shape of a quadrangular frame viewed from the top and formed to surround respective

bar-shaped patterns of the first pattern, and

wherein sides of said frame-shaped grooved pattern running parallel to respective bar-shaped patterns in the first pattern are disposed at an equal interval to the corresponding opposite bar-shaped pattern.

13. (Currently Amended) The overlay mark according to Claim 11; ~~which has, further~~  
comprising:

a third pattern, in a region surrounded by the second pattern on the layer where the first circuit pattern is formed, formed by engraving grooves to surround every bar-shaped pattern of the first pattern separately, each in the shape of a frame;

wherein: sides of said third pattern running parallel to respective bar-shaped patterns in the first pattern area disposed at an equal interval in the corresponding opposite bar-shaped pattern; while the third pattern is not used for making alignment.

14. (Currently Amended) The overlay mark according to Claim 11, wherein, ~~in place of said bar-shaped pattern,~~ a pattern in which quadrangular indents are arranged in a line is formed in place of said bar-shaped pattern.

15. (Currently Amended) The overlay mark according to Claim 12, wherein, ~~in place of said bar-shaped pattern,~~ a pattern in which quadrangular indents are arranged in a line is formed in place of said bar-shaped pattern.

16. (Currently Amended) The overlay mark according to Claim 13, wherein, ~~in place of said bar-shaped pattern~~, a pattern in which quadrangular indents are arranged in a line is formed in place of said bar-shaped pattern.

17. (Currently Amended) A semiconductor device ~~having~~ ,comprising:

a substrate on which the overlay mark according to Claim 1 is formed.

18. (Currently Amended) A semiconductor device ~~having~~ ,comprising:

a substrate on which the overlay mark according to Claim 2 is formed.

19. (Currently Amended) A semiconductor device ~~having~~ ,comprising:

a substrate on which the overlay mark according to Claim 9 is formed.

20. (Original) A method of measuring the overlay accuracy in forming a second circuit pattern over a first circuit pattern, wherein the overlay mark according to Claim 2 is used but, at least, the outermost lower-layer pattern is not utilized to detect an overlay position.

21. (Original) A method of making alignment to detect and decide an aligning position of a wafer and a mask, in the step of exposure during photolithography to form a second circuit pattern over a first circuit pattern, wherein the overlay mark according to Claim 9 is used but, at least, the outermost pattern is not utilized to detect an aligning position.

22.(New) The overlay mark according to claim 1, wherein said groove pattern is formed to surround said mark pattern at a substantially equal interval.

23. (New) The overlay mark according to claim 1, wherein said grooved pattern is at least as deep as said mark pattern.

24. (New) The overlay mark according to claim 2, wherein said second lower-layer pattern absorbs thermal expansion and contraction of an underlying layer.

25. (New) The overlay mark according to claim 2, wherein said groove of said second lower-layer is at least as deep as groove of said first lower-layer.

26. (New) The overlay mark according to claim 13, wherein said third pattern comprises a groove pattern, said second pattern and said third pattern are each at least as deep as said first pattern.

27. (New) The overlay mark according to claim 13, wherein said third pattern, said second pattern and said first pattern each comprise a groove of substantially the same depth.